

**AMENDMENT TO THE ABSTRACT**

**Please replace the paragraph on page 90, lines 2-15, with the following amended paragraph:**

A positive active material is provided which can give a battery having a high energy density and excellent high-rate discharge performance and inhibited from decreasing in battery performance even in the case of high-temperature charge. Also provided is a non-aqueous electrolyte battery employing the positive active material. The positive active material contains a composite oxide which is constituted of at least lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:  
$$\text{Li}_a\text{Mn}_b\text{Ni}_c\text{Co}_d\text{O}_e$$
 (wherein  $0 < a \leq 1.3$ ,  $|b-c| \leq 0.05$ ,  $0.6 \leq d < 1$ ,  $1.7 \leq e \leq 2.3$ , and  $b+c+d=1$ ). The non-aqueous electrolyte battery has a positive electrode containing the positive active material, a negative electrode, and a non-aqueous electrolyte.